

AMENDED IN SENATE JUNE 11, 2002

AMENDED IN ASSEMBLY APRIL 25, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1957**

---

---

**Introduced by Assembly Member Robert Pacheco**  
**(Coauthors: Assembly Members Bates, Bill Campbell, Correa,**  
**Goldberg, Harman, Strom-Martin, and Zettel)**  
*(Coauthor: Senator Oritz)*

February 14, 2002

---

---

An act to amend Section 2920 of the Probate Code, relating to public guardians.

LEGISLATIVE COUNSEL'S DIGEST

AB 1957, as amended, Robert Pacheco. Public guardians: criminal history information.

Existing law provides that a public guardian is a county officer and permits a public guardian to be appointed as a conservator for a person when no one else is available who is qualified and willing to act and when the appointment of a guardian or conservator would be in the best interest of the person, as specified.

This bill would permit a public guardian, providing services pursuant to specified conservatorship provisions, *or a county conservatorship investigator, as defined*, to ~~order a fingerprint background check from submit fingerprints and related information to the Department of Justice on any a person whom the public guardian is considering being investigated as a potential conservator as an alternative to the appointment of the public guardian or a person who has offered to~~

*provide assistance that may make a conservatorship unnecessary, except as specified. The bill would require the ~~fingerprint background check to include~~ Department of Justice to provide a record of all arrests resulting in conviction and all arrests for which final disposition is pending specified convictions and arrests. The bill would prohibit requiring the Department of Justice to provide the public guardian with from retaining fingerprints and related information to provide subsequent arrest information. The bill would require the Department of Justice to charge a fee to cover the cost of processing these requests, to be paid by the requesting agency. The bill would also require that criminal records information received by a public guardian and disclosed to the attorney of a proposed conservatee be kept confidential, except as specified.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1.   Section 2920 of the Probate Code is amended to  
2     read:  
3     2920.   If any person domiciled in the county requires a  
4     guardian or conservator and there is no one else who is qualified  
5     and willing to act and whose appointment as guardian or  
6     conservator would be in the best interest of the person:  
7         (a) The public guardian may apply for appointment as guardian  
8         or conservator of the person, the estate, or the person and estate.  
9         (b) The public guardian shall apply for appointment as  
10        guardian or conservator of the person, the estate, or the person and  
11        estate, if the court so orders. The court may make an order under  
12        this subdivision on motion of an interested person or on the court's  
13        own motion in a pending proceeding or in a proceeding  
14        commenced for that purpose. The court shall not make an order  
15        under this subdivision except after notice to the public guardian for  
16        the period and in the manner provided in Chapter 3 (commencing  
17        with Section 1460) of Part 1, consideration of the alternatives, and  
18        a determination by the court that the appointment is necessary. The  
19        notice and hearing under this subdivision may be combined with  
20        the notice and hearing required for appointment of a guardian or  
21        conservator.

(c) (1) A public guardian providing conservatorship services pursuant to this ~~chapter~~ *part* or Chapter 3 (commencing with Section 5350) of Part 2 of Division 5 of the Welfare and Institutions Code ~~may order a fingerprint background check from the Department of Justice on any person whom the public guardian is considering as a potential conservator as an alternative to the appointment of the public guardian. The fingerprint background check shall include a record of all arrests resulting in conviction and all arrests for which final disposition is pending. The Department of Justice may not be required to provide the public guardian with subsequent arrest information., or an agency designated as a county conservatorship investigator pursuant to Section 5351 of the Welfare and Institutions Code, may submit fingerprints and related information on a person who is being investigated as a potential conservator, or on a person who has offered to provide assistance that may make a conservatorship unnecessary, to the Department of Justice to obtain information pursuant to paragraph (2). Fingerprints submitted pursuant to this subdivision may include fingerprints taken by the use of live-scan technology.~~

(2) Upon a proper request pursuant to the provisions of paragraph (1), the Department of Justice shall provide information to the requesting agency regarding the existence and nature of all of the following:

(A) All convictions rendered against the subject of the background check.

(B) All arrests for an offense for which the subject of the background check is presently awaiting trial, whether the subject is incarcerated or has been released on bail or on his or her own recognizance pending trial.

(3) The Department of Justice may not retain fingerprints or related information submitted pursuant to this subdivision to provide subsequent arrest notification pursuant to Section 11105.2 of the Penal Code.

(d) The Department of Justice shall charge a fee sufficient to cover the cost of processing a request for information pursuant to subdivision (c). This fee shall be paid by the requesting agency.

(e) Notwithstanding subdivision (c), a private professional conservator who is in compliance with the requirements of Section

1 2342 in the county conducting the investigation may not be the  
2 subject of a background check pursuant to this section.

3 (f) The criminal records information received by a public  
4 guardian shall be kept confidential, except that it may be disclosed  
5 under seal to the court and to the attorney for the person for whom  
6 a conservatorship is being considered, when the appointment of a  
7 conservator as an alternative to the public guardian is being  
8 considered by the court. The attorney for the proposed conservatee  
9 shall keep any disclosed criminal records information  
10 confidential.

